

### R E M A R K S

Careful review and examination of the subject application are noted and appreciated.

The present invention concerns aa apparatus generally comprising an interface and a node. The interface may be connectable to a network. The node may be configured (i) as an add/drop device for the network, (ii) to transport a plurality of packets having a plurality of protocols within a frame on the network through the interface and (iii) to drop at least one of the packets from the frame.

### SUPPORT FOR THE CLAIM AMENDMENTS

Support for the claim amendments and the new claims may be found in the specification, for example, on page 10 lines 3-8, page 12 line 6 thru page 13 line 3, page 13 lines 7-12, page 14 line 19 thru page 15 line 7, page 16 lines 4-21, page 23 lines 3-6, page 24 line 16 thru page 25 line 3 and FIGS. 4-9 , 11 and 12 as originally filed. Thus, no new matter has been added.

### OBJECTION TO THE DRAWINGS

While Applicant's representative does not necessarily agree with the requirement to label FIGS. 1-3, in order to further prosecution, FIGS. 1-3 have been labeled "conventional".

Replacement FIGS. 1-3 are submitted herewith. As such, the objection to the drawings should be withdrawn.

CLAIM REJECTIONS UNDER 35 U.S.C. §102

The rejection of claims 1-6, 9 and 14-18 under 35 U.S.C. §102(e) as being anticipated by O'Connor '544 has been obviated by appropriate amendment and should be withdrawn.

O'Connor concerns a SONET add/drop multiplexer with Packet over SONET capability (Title). O'Connor does not appear to expressly or inherently disclose or suggest every element as arranged in the claims. As such, the claimed invention is fully patentable over the cited reference and the rejection should be withdrawn.

Claim 1 provides a node transporting a plurality of packets having a plurality of protocol within a frame. In contrast, O'Connor appears to be silent regarding a SONET add/drop multiplexer capable of handling a SONET frame holding multiple packets **having multiple protocols**. Therefore, O'Connor does not appear to disclose or suggest a node transporting a plurality of packets having a plurality of protocol within a frame as presently claimed. Claims 15 and 16 provide language similar to claim 1. As such, the claimed invention is fully patentable over the cited reference and the rejection should be withdrawn.

Claim 17 provides a step for identifying a data type of a payload in each of a plurality of packets from a packet header in each of the packets. In contrast, O'Connor appears to be silent regarding payload data type identification based on packet headers. Therefore, O'Connor does not appear to disclose or suggest identifying a data type of a payload in each of a plurality of packets from a packet header in each of the packets as presently claimed. As such, claim 17 is fully patentable over the cited reference and the rejection should be withdrawn.

**CLAIM REJECTIONS UNDER 35 U.S.C. §103**

The rejection of claims 7, 8 and 13 under 35 U.S.C. §103(a) as being unpatentable over O'Connor in view of Livermore et al. '511 (hereafter Livermore) has been obviated by appropriate amendment and should be withdrawn.

The rejection of claim 10 under 35 U.S.C. §103(a) as being unpatentable over O'Connor in view of Uphadya et al. '755 (hereafter Uphadya) has been obviated by appropriate amendment and should be withdrawn.

The rejection of claims 11, 12, 19 and 20 under 35 U.S.C. §103(a) as being unpatentable over O'Connor in view of Larsen '553 has been obviated by appropriate amendment and should be withdrawn.

O'Connor concerns a SONET add/drop multiplexer with Packet over SONET capability (Title). Livermore concerns a

programmable transport and network architecture (Title). Uphadya concerns an ATM emulated path protection (Title). Larsen concerns a data packet multiplexing in a staggered fashion (Title). O'Connor, Livermore, Uphadya and Larsen, alone or in combination, do not appear to teach or suggest every claim element. Furthermore, *prima facie* obviousness has not been established to combine the references. As such, the claimed invention is fully patentable over the cited references and the rejections should be withdrawn.

Clear and particular motivation has not been established. The argument on page 5, section 5 of the Office Action appears to confuse motivation to combine with the combination itself. No evidence has been provided from O'Connor, Livermore or knowledge generally available to one of ordinary skill in the art why motivation exists to add the asserted destination node address or the container length from Livermore to O'Connor. Instead, the Office Action appears to be using circular reasoning by arguing that the motivation to make the combination is that the combination will then exist. Therefore, *prima facie* obviousness has not been established for lack of clear and particular evidence. As such, claims 8 and 13 are fully patentable over the cited reference and the rejection should be withdrawn.

Claim 10 provides a network selected from a point-to-point network and a Wavelength Division Multiplexing

network. In contrast, both O'Connor and Uphadya appear to be silent regarding any topology other than ring networks. Therefore, O'Connor and Uphadya, alone or in combination, do not appear to teach or suggest a network selected from a point-to-point network and a Wavelength Division Multiplexing network as presently claimed.

Furthermore, no clear and particular evidence has been provided in the Office Action that protecting ATM traffic against a fiber cut or a media failure is a recognized problem to be solved in O'Connor. No clear and particular evidence has been provided in the Office Action that ATM traffic protection is a sought after enhancement to O'Connor. The fact that references can be combined or modified is not sufficient to establish *prima facie* obviousness (MPEP §2143.01). Therefore, *prima facie* obviousness has not been established for lack of motivation. As such, claim 10 is fully patentable over the cited references and the rejection should be withdrawn.

Claims 11, 12, 19 and 20 depended either directly or indirectly from independent claims 1 or 16, which are now believed to be allowable. Further, no clear and particular motivation appears to exist to modify O'Connor with Larsen. In particular, the SONET system of O'Connor does not appear to utilized a "staggered multiplexed packet format" (see page 6, last paragraph of the Office Action). Therefore, no motivation appears to exist

to format the non-existing staggered multiplexed packet format. The asserted motivation for "doing certain other housekeeping functions" (see page 6, last paragraph of the Office Action) is not clear and particular. Therefore, *prima facie* obviousness has not been established for lack of motivation to combine the references. As such, claims 11, 12, 19 and 20 are fully patentable over the cited references and the rejection should be withdrawn.

#### **INFORMATION DISCLOSURE STATEMENT**

Applicants's representative respectfully requests proper consideration of (i) the non-patent documents submitted with the September 22, 2000 Information Disclosure Statement and (ii) all of the documents submitted with the August 25, 2003 Supplemental IDS. Both the September 2000 and the August 2003 Supplemental Information Disclosure Statements were submitted under 37 CFR 1.97(b) and are believed to be in conformance with the 37 CFR 1.97 timing requirements and the 37 CFR 1.98 content requirements as discussed in MPEP §609. In particular, both Information Disclosure Statements were submitted prior to the mailing of the first Office Action on the merits per 37 CFR 1.97. Both Information Disclosure Statements also included (1) a list of the documents submitted for consideration, (2) a legible copy of each document and (3) all of the documents were in English per 37 CFR 1.98. Therefore, all of the documents should have been considered.

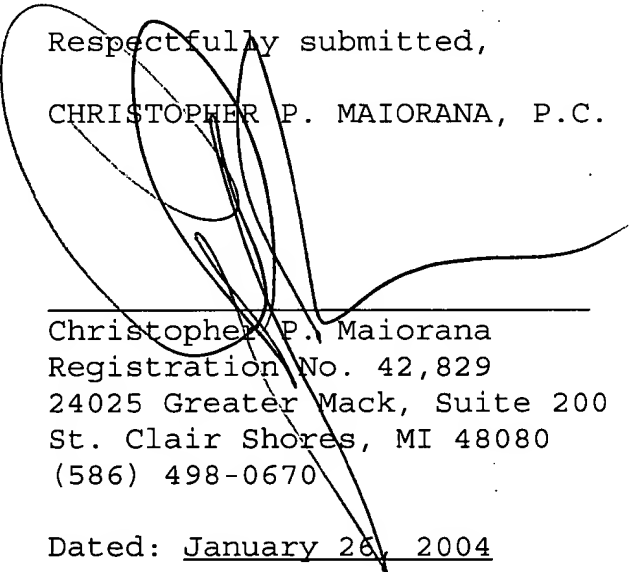
The present Office Action does not provide any explanation why the submitted documents were not considered. As such, the Examiner is respectfully requested to either (i) consider all of the documents or (ii) provide a detailed explanation for each document not being considered along with the appropriate statutory authority so that appropriate action may be taken. Clean copies the September 2000 PTO-1449 forms are enclosed for the Examiner to initial. A second copy of the references is not included.

The Examiner is respectfully invited to call the Applicant's representative should it be deemed beneficial to further advance prosecution of the application.

If any additional fees are due, please charge our office Account No. 50-0541.

Respectfully submitted,

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